

## DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 445-0813



February 22, 1983

ALL-COUNTY INFORMATION NOTICE I- 26-83

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: FARIAS v. WOODS, ORDER OF CALIFORNIA SUPERIOR COURT

On April 27, 1982, ACL 82-39 informed you of the required retention of open or closed AFDC-FG/U/FC records of children placed by court order with relatives not liable for their support due to the possibility of court ordered retroactive payments.

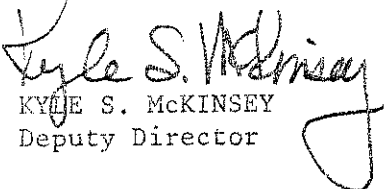
On December 28, 1982, the Superior Court of the State of California issued an order in the case of Farias v. Woods. The order states that those federally eligible children who were denied AFDC-FC solely on the basis that they were residing with relatives are entitled to retroactive benefits from February 1, 1978 through the date on which they were transferred to AFDC-FC or became ineligible. The date of transfer may be later than January 8, 1980, because the Miller v. Youakim regulations were implemented on a flow basis. The class action was intended to reimburse the foster parent for services rendered during the retroactive time periods. Regulations implementing the court order will be filed on an emergency basis if approved by the Office of Administrative Law.

Briefly, some of the provisions of the court order are:

1. Beginning date of retroactive benefits for the class is February 1, 1978.
2. All active AFDC(FG/U/FC) cases will be reviewed for eligibility during the redetermination process. In addition, all applications and discontinuances will be reviewed to identify potentially eligible recipients. However, potential recipients may walk in and request a determination of eligibility.
3. DSS will provide the plaintiff's attorney's with information received from counties regarding the number of applications, number of claims granted, number of claims paid, amount of money paid, current recipient status of child and whether the application was the result of the redetermination process or a walk-in request.
4. The application period will be limited to fifteen months from the effective date of the regulations. Case reviews at application, redetermination and discontinuance will be required during the fifteen month period.

5. Retroactive payments will be paid to the former caretaker relative. However, if at the end of the fifteen month application period, the former caretaker cannot be located with a diligent search, the payment will be made to the adult child, or, if the child is under 18 years old, a trust fund will be established for the child.
6. Determination and notification of eligibility must be completed within 60 days of application and, if eligible, payment must be made within 30 days of approval.
7. DSS is responsible for informing potentially eligible persons of the availability of retroactive payments via press releases and the issuance of posters and handbills.

A copy of the Superior Court order is attached. Please contact the Foster Care Program Bureau at (916) 445-0813 if you have any questions.

  
KYLE S. MCKINSEY  
Deputy Director

Attachment

1  
2  
3  
4  
5  
6  
7  
8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

10 JERRY FARIAS, et al., ) No. 710-754  
11 )  
12 Petitioners, ) PEREMPTORY WRITS OF  
13 vs. ) MANDATE  
14 )  
15 MARION J. WOODS, et al., )  
Respondents. )  
\_\_\_\_\_ )

16 TO MARIO OBLEDO, AS SECRETARY OF THE HEALTH AND WELFARE AGENCY OF  
17 THE STATE OF CALIFORNIA, MARION J. WOODS, AS DIRECTOR OF THE  
18 DEPARTMENT OF SOCIAL SERVICES OF THE STATE OF CALIFORNIA,  
19 RESPONDENTS, AND TO THEIR SUCCESSORS IN OFFICE, AGENTS, EMPLOYEES,  
20 AND REPRESENTATIVES, AND ALL OTHER PERSONS ACTING BY, THROUGH OR  
UNDER THEM OR IN CONCERT WITH THEM OR SUBJECT TO THEIR DIRECTION  
OR CONTROL INCLUDING THEIR STATUTORY AGENTS, THE BOARD OF  
SUPERVISORS OF EACH CALIFORNIA COUNTY AND THE DIRECTORS OF EACH  
COUNTY WELFARE DEPARTMENT/DEPARTMENT OF SOCIAL SERVICES:

21 Judgment having been entered in the above-captioned action,  
22 ordering the Clerk of this Court to issue Peremptory Writs of  
23 Mandate,

24 YOU ARE HEREBY COMMANDED:

25 1. Immediately upon receipt of this writ issued on behalf of  
26 petitioner Mary and Richard Cabral pursuant to Section 1094.5 of

1 the Code of Civil Procedure to set aside your hearing decisions  
2 adopted August 25, 1975, and July 8, 1981, entitled "In the Matter  
3 of the Hearing of Claimant Mary and Richard Cabral" and to further  
4 order the Stanislaus County Department of Social Services to pay  
5 petitioners Cabral retroactive federal AFDC-BHI (Aid to Families  
6 with Dependent Children - Boarding Homes and Institutions) foster  
7 care benefits on behalf of petitioners Noel Farias, Cynthia  
8 Farias, Elizabeth Farias and Jerry Farias for the period commenc-  
9 ing September 1, 1976 and continuing until each of the Farias  
10 petitioners became or becomes ineligible for such benefits by  
11 reason of age or departure from the Cabral home.

12 2. Immediately upon receipt of this writ issued on behalf of  
13 petitioner Wydell Crutchfield pursuant to Section 1094.5 of the  
14 Code of Civil Procedure to set aside your hearing decision of  
15 Claimant Wydell Crutchfield" and to further order the Contra Costa  
16 County Department of Social Services to pay petitioner Crutchfield  
17 retroactive federal AFDC-BHI foster care benefits on behalf of  
18 petitioners Larry Beale, William Beale, Richard Beale and Anthony  
19 Beale for the period commencing January 1, 1978 and continuing  
20 until January 1, 1980.

21 3. Immediately upon receipt of this writ issued on behalf of  
22 petitioner Margaret Morris Ingram pursuant to Section 1094.5 of  
23 the Code of Civil Procedure to set aside your hearing decision  
24 adopted January 16, 1981 entitled "In the Matter of the Hearing of  
25 claimant Margaret Morris Ingram" and to further order the Contra  
26 Costa County Department of Social Services to pay petitioner

1 Ingram retroactive federal AFDC-BHI foster care benefits on behalf  
2 of petitioners Mario McCain, Markell McCain and Antwen Somers for  
3 the period commencing January 1, 1978 and continuing until January  
4 1, 1980.

5 4. Immediately upon receipt of this writ issued on behalf of  
6 petitioner Ruth Johnson pursuant to Section 1094.5 of the Code of  
7 Civil Procedure to set aside your hearing decision adopted  
8 February 20, 1981 entitled "In the Matter of the Hearing of  
9 claimant Ruth Johnson" and to further order the Solano County  
10 Department of Social Services to pay petitioner retroactive  
11 federal AFDC-BHI foster care benefits on behalf of petitioners  
12 Jerry Johnson and Machon Deen for the period commencing January 1,  
13 1978 and continuing until January 1, 1980.

14 5. Immediately upon receipt of this writ issued pursuant to  
15 Section 1085 of the Code of Civil Procedure on behalf of the class  
16 as certified in paragraph 5 of the Judgment previously entered  
17 herein:

18 (A) To pay retroactive federal AFDC-BHI foster care  
19 benefits to foster parent members of the petitioner class on  
20 behalf of foster children members of said class, calculated as the  
21 difference between the federal AFDC-BHI foster care rate to which  
22 they were entitled and the ordinary AFDC rate which they received,  
23 for the period commencing February 1, 1978 and continuing until  
24 each such petitioner foster parent began receiving federal AFDC-  
25 BHI foster care benefits on behalf of his or her petitioner foster  
26 children under the new state Miller v. Youakim regulations which

1 became effective January 7, 1980 or until each petitioner foster  
2 child became ineligible for said benefits by reason of age or  
3 removal from the foster home, whichever occurred first.

4 (B) To promptly promulgate regulations and instructions  
5 to their agents in county Departments of Social Services/Welfare  
6 Departments to implement the specific terms of this judgment.  
7 These regulations shall include procedures for determining class  
8 membership and eligibility for benefits in cases in which the case  
9 file or other documentary evidence necessary for determining  
10 eligibility has been lost or destroyed or is otherwise unavail-  
11 able. Petitioners and their counsel shall have the right to  
12 review and comment on these regulations in draft form.

13 (C) To instruct their agents in each county to perform  
14 the following acts for a fifteen (15) month period commencing with  
15 the effective date of the regulations specified in Paragraph 5(B)  
16 above:

17 (1) to review each open AFDC case at the recipient's  
18 annual re-evaluation and each open AFDC-Foster Care  
19 case at the recipient's semi-annual review to  
20 determine the recipient's potential membership in  
21 the class described in paragraph 5 of the Judgment  
22 previously entered herein;

23 (2) to review each AFDC case which opens or closes to  
24 determine whether the recipient or applicant is a  
25 potential class member herein;

26 (3) to inform each recipient of AFDC who is identified

- 1 (5) to accept and process all applications for retro-  
2 active benefits under this judgment received prior  
3 to the close of the fifteen month period commencing  
4 with the effective date of the regulations specified  
5 in paragraph 5(B) above;
- 6 (6) to issue a Notice of Action granting or denying  
7 retroactive benefits within 60 days of the comple-  
8 tion of an application. Said Notice of Action shall  
9 inform applicants whose claims are denied in whole  
10 or in part of their right to seek review by request-  
11 ing a fair hearing under Welfare and Institutions  
12 Code Section 10950 et seq.;
- 13 (7) to issue payment of retroactive benefits under this  
14 judgment within 30 days of the date a claim is  
15 granted;
- 16 (8) to process applications at the end of the fifteen  
17 month period by or on behalf of a foster child where  
18 the former foster parent who may be a class member  
19 cannot be found pursuant to paragraph 5(C)(3)(c) and  
20 has not filed a claim, and to make retroactive  
21 payment where claims are granted
- 22 (a) to the foster child if the child is 18 or over;  
23 or  
24 (b) to the irrevocable trust specified in 5(I) below  
25 if the child is under 18;  
26

1 (9) to treat any retroactive payments received pursuant  
2 to this judgment as underpayments, not countable as  
3 income or resources, in computing current public  
4 assistance grants, if any, or in determining  
5 eligibility for other public assistance benefits,  
6 for the month in which the payment is received and  
7 for the following month.

8 (D) To prepare bi-lingual English-Spanish posters and  
9 flyers informing class members of their entitlement to retroactive  
10 federal AFDC-BHI foster care benefits under this settlement and to  
11 distribute said posters and flyers

12 (1) to each county Department of Social Services/  
13 Welfare Department in California with instructions  
14 that the poster be displayed in prominent locations  
15 and the flyers distributed for a fifteen month  
16 period commencing with the effective date of the  
17 regulations specified in paragraph 5(B) above; and

18 (2) to each legal services office in California listed  
19 in Appendix A to the Settlement Agreement and each  
20 foster parent or foster care advocacy organization  
21 listed in Appendix B to the Settlement Agreement  
22 with a request to post and distribute for said  
23 fifteen month period; and

24 (3) to all public services offices in California  
25 (posters only), including, but not limited to,  
26 Employment Development Department offices, Depart-



1 by the review procedures set out above of his or her  
2 potential class membership and right to apply for  
3 retroactive benefits and to supply each person  
4 identified the application form and explanatory  
5 flyer specified in paragraphs 5(D) and 5(G) below:

6 (a) at the face-to-face interview for the annual  
7 and semi-annual reviews of open AFDC cases; or  
8 (b) by mail within 15 days of review for opening and  
9 closing cases where no face-to-face interview is  
10 involved; or

11 (c) by mail within 15 days of the review where a  
12 former foster parent with whom an AFDC child is  
13 no longer residing appears from said reviews to  
14 be a potential class member. The application  
15 form and flyer mentioned above shall be sent to  
16 the former foster parent's last known address.  
17 Where the former foster parent cannot be located  
18 after diligent efforts, said application form  
19 and flyer shall be mailed to the foster child,  
20 if an adult, or to the present custodian of the  
21 child, if the child is a minor;

22 (4) to supply the application form and flyer specified  
23 in paragraph 5(D) and 5(G) below to anyone who  
24 inquires at county Department of Social Services/  
25 Welfare offices concerning eligibility for benefits  
26 under this judgment;

1           ment of Health offices, county hospitals, offices of  
2           the Social Security Administration, and U.S. Post  
3           Offices, with a request to post in a prominent  
4           location for said fifteen month period.

5           (E) To pay the cost of mailing the posters and flyers  
6 specified in 5(D) above.

7           (F) To issue a press release in English and Spanish  
8 immediately following the effective date of the regulations  
9 specified in 5(B) above, and to re-issue said press release 90  
10 days later. Said press release shall inform potential class  
11 members of their right to apply for retroactive federal AFDC-BHI  
12 foster care benefits pursuant to this judgment and shall be issued  
13 to the following media:

14           (1) all newspapers of general circulation in the State  
15           of California with a request to publish in a  
16           prominent location;

17           (2) all radio and television stations in the State of  
18           California with a request that the information be  
19           broadcast as a public service announcement.

20           (G) To design an application form for retroactive  
21 federal AFDC-BHI foster care benefits pursuant to this judgment,  
22 to give said form a name or number for ready identification, to  
23 include the name or number of said form on the posters, flyers,  
24 and press releases mentioned above, and to distribute said form to  
25 their agents in county Departments of Social Services/Welfare  
26 Departments throughout California.

1           (H) To allow petitioners and their counsel to review  
2 the form and content of the posters, flyers, press releases, and  
3 application form specified in 5(D), 5(F) and 5(G) above and to  
4 make reasonable modifications in their form and content in  
5 response to suggestions from petitioners and their counsel.

6           (I) To establish an irrevocable trust or trusts at the  
7 end of the fifteenth month period commencing with the effective  
8 date of the regulations specified in 5(B) above, for which the  
9 State Department of Social Services shall be the trustor, the  
10 minor children specified in 5(C)(8)(b) shall be the beneficiaries,  
11 and a bank or other financial institution chosen by mutual agree-  
12 ment of the parties shall be the trustee. Payment to each bene-  
13 ficiary of his or her share of the trust principal and interest  
14 shall be made on his or her eighteenth birthday. Any charge for  
15 the management of the trust shall be paid out of the accrued  
16 interest and then the corpus.

17           (J) To provide to petitioners' counsel quarterly  
18 reports of the progress of implementation of this judgment for a  
19 period of two years commencing with the effective date of the  
20 regulations specified in 5(B), which shall include:

- 21           (1) a summary of each of the steps taken by respondents  
22               during the previous three months to implement the  
23               terms of this judgment; and,  
24           (2) copies of information provided to respondents by  
25               their agents in each county during the previous  
26               three months, which shall include, at a minimum: the

1           number of applications filed, the number of claims  
2           granted, the number of claims paid and the amount  
3           paid.

4           (K) To provide petitioners' counsel with the following  
5           information for claims by foster children, as specified in 5(C)(3)  
6           above, at the end of the fifteen month period commencing after the  
7           effective date of the regulations specified in 5(B) above:

8           (1) the number of applications filed and the number of  
9           claims granted for minors and persons over 18;

10          (2) the number of claims paid and the amount of money  
11          paid for persons over 18; and,

12          (3) the total amount of money payable to the trust for  
13          minors.

14        //

15        //

16        //

17        //

18        //

19        //

20        //

21        //

22        //

23        //

24        //

25        //

26        //

1 YOU ARE FURTHER COMMANDED to make and file a return to the  
2 writs issued pursuant to paragraphs 1 through 5 herein on or  
3 before February 28, 1983, setting forth what you have done  
4 to comply.

5  
6 Dated: DEC 28 1982



CARL M. OLSEN  
Clerk

By: Pat La Brash  
Deputy Clerk

13 LET THE FOREGOING WRITS ISSUE.

14  
15 Dated: 12/28/82

16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

JUDGE OF THE SUPERIOR COURT  
STUART R. DOLAN